

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10-CV-00453-RJC

CURTIS ARNOLD)
)
 v.) ORDER
)
UNITED STATES OF AMERICA)
)

THIS MATTER comes before the Court on its own motion.

In Petitioner's Motion to Vacate, (Doc. No. 1), and Supplemental Motion to Vacate, (Doc. No. 15), he claims he should no longer be sentenced as a Career Offender under USSG §4B1.1 based on Carachuri-Rosendo v. Holder, 130 S. Ct. 2577 (2010) and United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc). The United States Court of Appeals for the Fourth Circuit previously rejected such a claim in an unpublished decision. United States v. Walker, No. 11-6660, 2012 WL 5359506, at *1 (4th Cir. filed Nov. 1, 2012). However, the court recently found Simmons retroactive to invalidate a conviction under 18 U.S.C. § 922(g)(1), Miller v. United States, --- F.3d --- (4th Cir. 2013), and scheduled oral argument on October 31, 2013, in a case similar to Petitioner's, United States v. Brantley, No. 12-4752 (Aug. 15, 2013) (district court vacated Career Offender sentence on collateral review based on Carachuri and Simmons).

IT IS, THEREFORE, ORDERED that the Court will stay this matter pending the resolution of Brantley or other appellate direction.

Signed: September 3, 2013


Robert J. Conrad, Jr.
United States District Judge

